



Department of Justice

STATEMENT

OF

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BEFORE THE

**COMMITTEE ON THE INTERNATIONAL RELATIONS
UNITED STATES HOUSE OF REPRESENTATIVES**

CONCERNING

INTERNATIONAL CHILD ABDUCTION

PRESENTED ON

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**Testimony of
Assistant Attorney General Daniel J. Bryant
Office of Legal Policy
Department of Justice**

before the

**House International Relations Committee
Hearing on International Child Abduction
June 22, 2004**

Mr. Chairman, and members of the Committee, thank you very much for the opportunity to testify today about the Department of Justice's efforts to combat international child abduction. The Department of Justice appreciates and commends your leadership regarding the problem of international child abduction.

The Department of Justice is committed to the goal of finding and protecting missing and exploited children. The Department of Justice particularly commends the efforts of the National Center for Missing and Exploited Children (NCMEC) and its employees in furthering this mission. Furthermore, the Department of Justice supports enhancing and improving the tools and resources available to addressing the problem of international child abduction.

Let me briefly describe some of the Department of Justice's efforts.

First, the Department of Justice provides significant financial and technical support to efforts to locate and return abducted children. The Missing Children's Assistance Act (42 U.S.C. 5771 et seq.) directs the Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP) to address the problem of missing and exploited children by establishing a toll-free telephone number, establishing and operating a national clearinghouse of information about missing and exploited children,

and providing technical assistance to law enforcement agencies, nonprofit agencies, and families to help locate and recover missing children. OJJDP awards funding to NCMEC, an independent nonprofit organization and not a Federal agency or instrumentality, to perform these functions. Pursuant to a grant and corresponding Cooperative Agreement between the Department of Justice, NCMEC, and the Department of State, NCMEC is also designated to help the United States fulfill its obligations under the Hague Convention on Civil Aspects of International Child Abduction, and its implementing legislation, the International Child Abduction Remedies Act (42 U.S.C. 11601 et seq.). These duties include locating children, assuring their health and safety, and assisting parents in having children returned, either voluntarily or through litigation. In Fiscal Year 2004, the Department of Justice has provided more than \$17 million to NCMEC perform all of its functions, with \$750,000 specifically for activities related to international abductions. In addition, OJJDP funds Team H.O.P.E. (Help Offering Parents Empowerment), a peer support network for families with missing children.

The Department of Justice also publishes guides for parents and others on how to deal with abductions, which are available on the Department of Justice's website. For example, parents can obtain the *Family Resource Guide on International Parental Kidnapping* (2002), which presents practical and detailed advice about preventing international abductions, describes how to increase the chances that children will be returned, assesses civil and criminal remedies available in these cases, explains applicable laws, identifies public and private resources available to parents, and prepares parents for legal and emotional issues that are likely to arise. Law enforcement officials can obtain the *Law Enforcement Guide on International Parental Kidnapping* (2002),

which provides guidance for local, state, and Federal law enforcement authorities who are called upon to respond to these cases, including available resources and suggested strategies. These are in addition to other OJJDP publications on child abduction in general, such as *When Your Child Is Missing: A Family Survival Guide*, *Federal Resources for Missing and Exploited Children: A Directory for Law Enforcement and other Public and Private Agencies*, and the *Investigative Checklist for First Responders*, all three of which were recently updated for National Missing Children's Day 2004.

Next, OJJDP provides grants to various entities to perform studies on international child abduction that are useful to policymakers, parents, and law enforcement. For example, OJJDP has funded and makes available on its website the following publications: *Children Abducted by Family Members: National Estimates and Characteristics* (2002), *Issues in Resolving Cases of International Child Abduction by Parents* (2001), *The Criminal Justice System's Response to Parental Abduction* (2001), *Parental Abduction: A Review of the Literature* (2001), *Early Identification of Risk Factors for Parental Abduction* (2001), and *Family Abductors: Descriptive Profiles and Preventive Interventions* (1996).

In addition, the Department of Justice and its law enforcement agencies provide a range of resources available to locate children and/or abductors. The Federal Bureau of Investigation (FBI) maintains the National Crime Information Center (NCIC) database that local, state, and federal criminal justice agencies throughout the United States may consult. The Missing Children Act and the National Child Search Assistance Act together require federal, state, and local law enforcement agencies to enter descriptions of missing children into the NCIC Missing Person File without any waiting period and

without regard to whether a crime has been committed. Law enforcement can and should also enter an abductor in the NCIC Wanted Person File if that person has been charged with parental abduction under state or federal law. Furthermore, the U.S. National Central Bureau (NCB) of INTERPOL, the 178 nation police communications network, can transmit messages (called “diffusions”) to foreign country police forces to locate children or abductors whom prosecutors wish to extradite.

The FBI also conducts its own investigations of international child abductions, and FBI legal attaches at U.S. embassies in foreign countries as a general matter request assistance from local law enforcement in those countries either to locate or to confirm a location as to the abductor and child. In addition to investigation, the FBI also creatively uses other tools to locate abducted children, such as posting their photos on the FBI website and publicizing their cases in foreign media.

The FBI also assists in obtaining and serving Unlawful Flight to Avoid Prosecution (UFAP) warrants. Under the Fugitive Felon Act (18 USC 1073), state and local prosecutors can apply to a U.S. Attorney or directly to the FBI to file a request for a warrant with a U.S. district court. If the FBI discovers that the abductor has left the country with the child, the FBI may be able to continue its investigation by requesting the assistance of foreign law enforcement authorities. If the FBI discovers the child’s whereabouts during the course of efforts to locate and apprehend the abductor, they can alert local child welfare services and the remaining parents so that they can pursue recovery of the child.

The Department of Justice also provides assistance to parents through the Office for Victims of Crime (OVC). OVC transfers funds to OJJDP for NCMEC to direct a

victim service program entitled the Victim Reunification Travel program (VRT). This program serves crime victims by working to return American children from overseas who are victims of international parental abduction, providing funding assistance to eligible parents who are in financial need. This funding provides support for such services as transportation expenses to attend a court proceeding, translation services of necessary documents related to the court hearing and reunification process, and counseling support to prepare the parent(s) and child(ren) for reunification and to minimize trauma to the child. OVC has provided funding for this project since FY 1997. Since that time, this funding has assisted in the recovery of approximately 200 children. One example is the case of three children taken to Mexico 1999, when they were five, seven, and eight years old, by their non-custodial father and were kept from their mother for four years. Once confirmation was received that the children were in Mexico, custody orders and warrants were provided to Mexican authorities. Victim Reunification Travel funds were provided for the mother's travel to Mexico and the family's return to the United States.

Finally, the Department of Justice and the U.S. Attorneys' Offices prosecute abductors under the International Parental Kidnapping Crime Act (18 U.S.C. 1204), which makes it a federal felony to remove a child under 16 from the United States or to retain a child outside the United States with the intent to obstruct the lawful exercise of parental rights. The PROTECT Act, enacted on April 30, 2004, also made it a crime to attempt international parental kidnapping. This new attempt provision provides a critical tool in those few, lucky cases in which a parental kidnapping can be anticipated and thwarted before a child is wrongfully removed from the United States.

The FBI investigates parental kidnapping cases (as noted above), usually following a complaint by the U.S. parent. The U.S. Attorney, usually in the district from which the child was taken, may bring federal charges when circumstances warrant, often in consultation with the Department of Justice's Child Exploitation and Obscenity Section. As you are aware, however, filing criminal charges in abduction cases is a very sensitive matter. Criminal charges may be ill-advised, especially when the children remain in a foreign country. Parents are often willing to serve prison time if they can return to the foreign country—and the children they abducted—following their sentence, which is statutorily set at a maximum of only three years. Charges may even be counterproductive, since they do not necessarily provide an incentive for return of the child. Furthermore, foreign authorities are often reluctant to cooperate with U.S. authorities on resolving child abduction cases if their nationals are liable to criminal prosecution. If extradition is requested, the Department of Justice's Office of International Affairs files a request with the foreign country's authorities, but the likelihood of success depends on, first whether the United States has a bilateral extradition treaty with the country, and, second, whether the treaty partner can or is willing to extradite for the offense of parental kidnapping.

For those reasons, prosecutions are relatively few. From Fiscal Year 1999 through Fiscal Year 2003, U.S. Attorneys' Offices have filed charges against 96 defendants for violation of 18 U.S.C. 1204, International Parental Kidnapping. Through May 2004, in this fiscal year, U.S. Attorneys' Offices have filed such charges against 16 defendants. One example of a recent prosecution was that of Fazal Raheman for kidnapping his two young children from Cambridge, Massachusetts, to India. Raheman

kidnapped the children, who were then only 1 and 5 years old, in November 1997, was arrested in July 2001, and was convicted after a jury trial in March 2002 of one count of violating 18 U.S.C. § 1204 and one count of wiretapping. He received the statutory maximum penalty on the international parental kidnapping count—three years' incarceration—followed by three years' supervised release as a result of the wire-tapping conviction (in the absence of which, his supervised release sentence on the kidnapping count would have been only one year). Raheman was incarcerated from his arrest in July 2001 to February 2004. Not only did Raheman refuse to assist the government in any way while he was incarcerated, he also actively and successfully opposed his former wife's attempts to obtain her children in the Indian courts through his attorney and relatives in India. Thus, seven years after Raheman kidnapped the children, and even after he was incarcerated, Raheman's former wife has still not been reunited with her children, who remain in India.

In sum, the Department of Justice is as actively engaged as current law permits, with sensitivity to the complexities present in such cases. We are committed to further enhancing our capabilities to address international parental kidnapping with sensible and practicable legislative initiatives, and we are pleased to work with the committee in doing so.